

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

PHILLIP GENE MCDANIEL                   §  
VS.                                 §      CIVIL ACTION NO. 1:06cv134  
DIRECTOR, TDCJ-CID                   §

MEMORANDUM OPINION REGARDING VENUE

Petitioner Phillip Gene McDaniel, an inmate confined in the Ramsey II Unit, proceeding *pro se*, brings this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

## Factual Background

On August 18, 1992, in Harris County, Texas, petitioner was convicted of robbery. Petitioner was sentenced to a term of 25 years confinement in the Texas Department of Criminal Justice, Correctional Institutions Division.

## Analysis

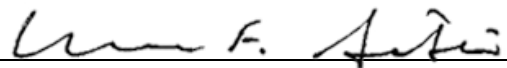
Pursuant to 28 U.S.C. § 2241(d), a petitioner may bring his petition for writ of habeas corpus in the district court for the district wherein such person is in custody or in the district court for the district within which he was convicted. Section 2241(d) further provides that the district court in the exercise of its

discretion may transfer the action to the other district in the furtherance of justice.

Petitioner is currently confined at the Ramsey II Unit in Rosharon, Brazoria County, Texas. Petitioner was convicted and sentenced in Harris County, Texas. Pursuant to 28 U.S.C § 124, both Harris County and Brazoria County are in the Houston Division of the Southern District of Texas.

As petitioner was not convicted within, and is not confined within, this district court's territorial boundaries, jurisdiction is not proper. However, under 28 U.S.C. § 1404(a), for the convenience of parties and witnesses and in the interest of justice, a district court may transfer any civil action to any other district or division where it could have been brought. Such a transfer may be done *sua sponte* and is reviewable only for an abuse of discretion. *Mills v. Beech Aircraft Corp.*, 886 F.2d 758, 761 (5th Cir. 1989). Therefore, it is the opinion of the undersigned that this petition should be transferred to the United States District Court for the Southern District of Texas, Houston Division. An Order of Transfer so providing shall be entered in accordance with this Memorandum Order.

**SIGNED** this 18 day of August, 2006.

  
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KEITH F. GIBLIN  
UNITED STATES MAGISTRATE JUDGE